

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 234.6(4), 239B.4(6), and 249A.4, the Department of Human Services proposes to amend Chapter 40, “Application for Aid,” Chapter 41, “Granting Assistance,” Chapter 65, “Food Assistance Program Administration,” Chapter 75, “Conditions of Eligibility,” Chapter 76, “Application and Investigation,” and Chapter 92, “IowaCare,” Iowa Administrative Code.

The proposed amendments would:

- Enable people to gain or regain Family Investment Program, Food Assistance, or Medicaid eligibility after denial or cancellation of assistance due to lack of information or lack of an interview when the required information is provided or the interview is completed within 14 days of the cancellation or denial. A new application would not be required.
- Exempt all reasonable income-producing costs from gross unearned income to align policies between unearned lump-sum income and other types of unearned monthly income.
- Allow flexibility for workers to complete application interviews for the Family Investment Program by telephone or face to face and make an interview optional for reviews.
- Make technical corrections to update form numbers and procedures.

Allowing a grace period to cure a denial or cancellation will streamline the eligibility determination process for applicants and members and for Department staff. Iowa has received approval of a waiver from the USDA Food and Nutrition Service to allow reinstatement of Food Assistance without a new application. The waiver will allow uniform processing standards across programs. The changes will reduce the “churning” of otherwise eligible people in and out of programs for procedural reasons.

Changes in the FIP interview requirement will increase flexibility in interviewing requirements and reduce unnecessary procedural requirements. Developing processing efficiencies is essential because Department caseloads are very high. Participation in the Food Assistance and Medicaid programs is at an all-time high, and the Family Investment Program caseload is increasing after years of steady decline. The combined effect of increased use of Department programs has increased the average caseload for an income maintenance worker over 15 percent, from 467 in June 2008 to 540 in June 2009. Based on the current number of staff, the projected average caseload would increase to 594 by June 2011.

These amendments do not provide for waivers in specified situations because allowing a grace period for establishing eligibility, allowing more income deductions, and waiving some interview requirements are all benefits to clients.

Any interested person may make written comments on the proposed amendments on or before November 24, 2009. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Analysis and Appeals, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments are intended to implement Iowa Code sections 234.12, 239B.2, 239B.3, 239B.7, and 249A.4.

The following amendments are proposed.

ITEM 1. Amend subrule 40.22(5) as follows:

40.22(5) Reinstatement.

a. Assistance shall be reinstated without a new application when all necessary information is provided before the effective date of cancellation and eligibility can be reestablished, or the family meets the conditions described at 441—subparagraph ~~41.30(3)“d”(9)~~ 41.30(3)“f”(9). EXCEPTION: The reinstatement provisions of subrule 40.22(5) do not apply when assistance is canceled due to the imposition of a subsequent limited benefit plan as described at 441—subrule 41.24(8), unless the limited benefit plan is stopped as described in 441—paragraph 41.24(8)“g” or “h.”

b. ~~Revised IAB 7/11/01, effective 9/1/01.~~ When assistance has been canceled for failure to provide requested information, assistance shall be reinstated without a new application if all information necessary to establish eligibility, including verification of any changes, is provided within 14 days of the effective date of cancellation and eligibility can be reestablished. If the fourteenth calendar day falls on a weekend or state holiday, the client shall have until the next business day to provide the information. The effective date of assistance shall be the date all information required to establish eligibility is provided.

c. ~~When eligibility factors are met, assistance shall be reinstated when~~ When assistance has been canceled for failure to return a completed Form 470-2881, 470-2881(M), 470-4083 (Spanish), or 470-4083(M), Review/Recertification Eligibility Document review form pursuant to subrule 40.27(3), assistance shall be reinstated without a new application if the completed form is received by the department within ten 14 days of the effective date of cancellation notice is sent to the recipient because the form was incomplete or not returned and eligibility can be reestablished. If the fourteenth calendar day falls on a weekend or state holiday, the client shall have until the next business day to provide the information. The effective date of assistance shall be the date the Review/Recertification Eligibility Document is received.

d. ~~Revised, effective October 1, 1985.~~ When assistance has been canceled for failure to complete a required review interview, assistance shall be reinstated without a new application if the interview is completed and all necessary information to determine eligibility, including verification of any changes, is provided within 14 days of the effective date of cancellation and eligibility is reestablished. If the fourteenth calendar day falls on a weekend or state holiday, the client shall have until the next business day to provide the information. The effective date of assistance shall be the date the interview is completed.

ITEM 2. Adopt the following **new** subrule 40.23(4):

40.23(4) Grace period.

a. When an application has been denied for failure to provide requested information, if all necessary information to establish eligibility, including verification of any changes, is provided within 14 days of the date of denial, a new application is not required. If the fourteenth calendar day falls on a weekend or state holiday, the applicant shall have until the next business day to provide the information. If eligibility can be established, the effective date of assistance is the date all of the information is provided.

b. When an application has been denied for failure to attend an interview, if the interview is completed and all necessary information to establish eligibility, including verification of any changes, is provided within 14 days of the date of denial, a new application is not required. If the fourteenth calendar day falls on a weekend or state holiday, the applicant shall have until the next business day to provide the information. If eligibility can be established, the effective date of assistance is the date the interview is completed or the date all of the information is provided, whichever is later.

ITEM 3. Amend subrule **40.24(2)**, introductory paragraph, as follows:

40.24(2) ~~In processing an application, the~~ The department or the designated worker as described in subrule 40.23(1) who is in a disproportionate share hospital, federally qualified health center, or other facility in which outstationing activities are provided shall conduct at least one a face-to-face or telephone interview with the applicant before approval of the initial application for assistance and a face-to-face or telephone interview before approval of any subsequent application for assistance.

ITEM 4. Amend subrule 40.27(1) as follows:

40.27(1) Eligibility factors shall be reviewed at least every six months for the family investment program.

~~a. A semiannual review shall be conducted using information contained in and verification supplied with Form 470-2881, 470-2881(M), 470-4083 (Spanish), or 470-4083(M), Review/Recertification Eligibility Document.~~

~~b. An interview shall may be conducted at least annually at the time of a review using information contained in and verification supplied with Form 470-2881, 470-2881(M), 470-4083 (Spanish), or 470-4083(M), Review/Recertification Eligibility Document.~~

~~c. When the client has completed a Health and Financial Support Application, Form 470-0462 or 470-0466 (Spanish), for another purpose required by the department, this form may be used as the review document for the semiannual or annual review.~~

ITEM 5. Amend subrules 40.27(3) and 40.27(4) as follows:

40.27(3) Information for semiannual reviews ~~and the annual determination interview~~ shall be submitted on Form 470-2881, 470-2881(M), 470-4083 (Spanish) 470-2881(S), or 470-4083(M) 470-2881(MS), Review/Recertification Eligibility Document (RRED).

a. The department shall supply the review form to the recipient as needed or upon request. The department shall pay the cost of postage to return the form.

(1) When the review form is issued in the department's regular end-of-month mailing, the recipient shall return the completed form to the department by the fifth calendar day of the following month.

(2) When the review form is not issued in the department's regular end-of-month mailing, the recipient shall return the completed form to the department by the seventh day after the date it is mailed by the department.

(3) A copy of a review form received by fax or electronically shall have the same effect as an original form.

~~a. b.~~ When the client has completed Form 470-0462 or Form 470-0466 (Spanish), Health and Financial Support Application, for another purpose, this form may be used as ~~the quarterly report or as the review document for the semiannual or annual review.~~

~~b. c.~~ The review form shall be signed by the payee, the payee's authorized representative, or, when the payee is incompetent or incapacitated, someone acting responsibly on the payee's behalf.

40.27(4) Responsibilities of recipients. For the purposes of this subrule, recipients shall include persons who received assistance subject to recoupment because the persons were ineligible.

a. The recipient shall cooperate by giving complete and accurate information needed to establish eligibility and the amount of the family investment program grant.

b. The recipient shall complete Form 470-2881, 470-2881(M), 470-4083 (Spanish), or 470-4083(M), Review/Recertification Eligibility Document, the required review form when requested by the department in accordance with these rules subrule 40.27(3). The department shall supply the form as needed to the recipient. The department shall pay the cost of postage to return the form.

(1) When the form is issued in the department's regular end-of-month mailing, the recipient shall return the completed form to the department by the fifth calendar day of the following month. When the form is not issued in the department's regular end-of-month mailing, the recipient shall return the completed form to the department by the seventh day after the date it is mailed by the department.

(2) The department shall supply the recipient with Form 470-2881, 470-2881(M), 470-4083 (Spanish), or 470-4083(M), Review/Recertification Eligibility Document, on request.

(3) Failure to return a completed form shall result in cancellation of assistance. A completed form is a form with all items answered, signed, dated and accompanied by verification as required in 441—paragraphs 41.27(1) "i" and 41.27(2) "q."

c. The recipient has the primary responsibility for providing information and verification needed to establish eligibility and the amount of the family investment program grant. The recipient shall supply, insofar as the recipient is able, information and verification needed within ~~five~~ ten working days from the date a written request is mailed by the department to the recipient's current mailing address or given to the recipient. The department shall extend the deadline when the recipient requests an extension because the recipient is making every effort to supply the information or verification but is unable to do so.

(1) to (3) No change.

d. to g. No change.

ITEM 6. Amend subrule 41.27(1), introductory paragraph, as follows:

41.27(1) *Unearned income.* Unearned income is any income in cash that is not gained by labor or service. When taxes are withheld from unearned income, the amount considered will be the net income after the withholding of taxes (~~federal insurance contribution~~ Federal Insurance Contribution Act, state and federal income taxes). Net unearned income, ~~from investment and nonrecurring lump sum payments,~~ shall be determined by deducting reasonable income-producing costs from the gross unearned income. Money left after this deduction shall be considered gross income available to meet the needs of the eligible group.

ITEM 7. Amend subparagraph **41.27(2)“m”(1)** as follows:

(1) \$41 plus an amount equivalent to the monthly maximum food ~~stamp allotment in the food stamp~~ assistance program benefit for a one-member household for a boarder and roomer or an individual in the home to receive nursing care, or \$41 for a roomer, or an amount equivalent to the monthly maximum food ~~stamp allotment in the food stamp~~ assistance program benefit for a one-member household for a boarder.

ITEM 8. Amend paragraph **41.27(6)“b”** as follows:

b. The value of the ~~coupon allotment in the food stamp~~ assistance program benefit.

ITEM 9. Amend subparagraph **41.27(9)“b”(1)** as follows:

(1) The department shall prospectively compute eligibility and benefits when a ~~Review/Recertification Eligibility Document, Form 470-2881, 470-2881(M), 470-4083 (Spanish), or 470-4083(M),~~ review information is completed submitted as described in ~~441—40.27(239B)~~ 441—subrule 40.27(3). All countable earned and unearned income received by the eligible group during the previous 30 days shall be used to project future income. If the participant indicates that the 30-day period is not indicative of future income, income from a longer period or verification of anticipated income from the income source may be used to project future income.

ITEM 10. Amend subparagraph **65.4(5)“a”(1)** as follows:

(1) The client shall sign Form 470-2827, ~~Offline Food Stamp~~ POS Voucher, to authorize a debit of the household's EBT account.

ITEM 11. Amend subrule 65.20(1) as follows:

65.20(1) Issuance of the automated Notice of Expiration will occur with the mailing of Form 470-2881, 470-2881(M), ~~470-4083 (Spanish)~~ 470-2881(S), or ~~470-4083(M)~~ 470-2881(MS), Review/Recertification Eligibility Document (RRED), or a hand-issued Form 470-0325, Notice of Expiration.

ITEM 12. Strike the word “stamp” wherever it appears in subrule **65.28(19)** and insert the word “assistance” in lieu thereof.

ITEM 13. Adopt the following new subrule 65.29(12):

65.29(12) *Unearned income.* Unearned income is any income in cash that is not gained by labor or service. When taxes are withheld from unearned income, the amount considered will be the net income after the withholding of taxes (Federal Insurance Contribution Act, state and federal income taxes). Net unearned income shall be determined by deducting reasonable income-producing costs from the gross unearned income. Money left after this deduction shall be considered gross income available to the household.

ITEM 14. Amend rule 441—65.44(234) as follows:

441—65.44(234) Reinstatement.

65.44(1) The department shall reinstate assistance without a new application when the element that caused termination of a case no longer exists and eligibility can be reestablished prior to the effective date of cancellation.

65.44(2) When assistance has been canceled for failure to provide requested information, assistance shall be reinstated without a new application if all information necessary to establish eligibility, including verification of any changes, is provided within 14 days of the effective date of cancellation and eligibility can be reestablished. If the fourteenth calendar day falls on a weekend or state holiday, the client shall have until the next business day to provide the information. The effective date of assistance shall be the date all information required to establish eligibility is provided.

ITEM 15. Rescind and reserve rule **441—75.51(249A)**.

ITEM 16. Amend rule 441—75.52(249A) as follows:

441—75.52(249A) Continuing eligibility.

75.52(1) Reviews. Eligibility factors shall be reviewed at least annually for the FMAP-related programs.

~~a.~~ Reviews shall be conducted using information contained in and verification supplied with ~~Form 470-2881, 470-2881(M), 470-4083 (Spanish), or 470-4083(M), Review/Recertification Eligibility Document~~ the review form specified in subrule 75.52(3).

~~b.~~ ~~Family medical assistance-related medically needy recertifications shall be conducted using information contained in and verification supplied with Form 470-3118 or 470-3118(S), Medicaid Review.~~

75.52(2) No change.

75.52(3) Forms.

~~a.~~ Information for the annual review shall be submitted on Form 470-2881, 470-2881(M), ~~470-4083 (Spanish)~~ 470-2881(S), or ~~470-4083(M)~~ 470-2881(MS), Review/Recertification Eligibility Document (RRED), with the following exceptions:

~~a.~~ (1) When the client has completed Form 470-0462 or 470-0466 (Spanish), Health and Financial Support Application, for another purpose, this form may be used as the review document for the ~~semiannual~~ or annual review.

~~b.~~ (2) Information for recertification of family medical assistance-related medically needy shall be submitted on Form 470-3118 or 470-3118(S), Medicaid Review.

~~b.~~ The department shall supply the review form to the client as needed, or upon request, and shall pay the cost of postage to return the form.

(1) When the review form is issued in the department's regular end-of-month mailing, the client shall return the completed form to the department by the fifth calendar day of the following month.

(2) When the review form is not issued in the department's regular end-of-month mailing, the client shall return the completed form to the department by the seventh day after the date the form is mailed by the department.

(3) A copy of a review form received by fax or electronically shall have the same effect as an original form.

~~c.~~ No change.

75.52(4) Client responsibilities. For the purposes of this subrule, "clients" shall include persons who received assistance subject to recoupment because the persons were ineligible.

~~a.~~ The client shall cooperate by giving complete and accurate information needed to establish eligibility.

~~b.~~ The client shall complete ~~Form 470-2881, 470-2881(M), 470-4083(Spanish), or 470-4083(M), Review/Recertification Eligibility Document (RRED), or Form 470-3118 or 470-3118(S), Medicaid Review,~~ the required review form when requested by the department in accordance with these rules subrule 75.52(3). The department shall supply the form to the client as needed, or upon request, and shall pay the cost of postage to return the form.

~~(1)~~ When the form is issued in the department's regular end-of-month mailing, the client shall return the completed form to the department by the fifth calendar day of the review month.

~~(2) When the form is not issued in the department's regular end-of-month mailing, the client shall return the completed form to the department by the seventh day after the date it is mailed by the department.~~

~~(3) If the department does not receive a completed form, assistance shall be canceled. A completed form is one that has all items answered, is signed, is dated, and is accompanied by verification as required in paragraphs 75.57(1) "f" and 75.57(2) "l."~~

~~(4) A copy of a form received by fax or electronically shall have the same effect as an original form.~~

c. to h. No change.

75.52(5) No change.

ITEM 17. Amend subrule 75.57(1) as follows:

75.57(1) Unearned income. Unearned income is any income in cash that is not gained by labor or service. When taxes are withheld from unearned income, the amount considered will be the net income after the withholding of taxes (Federal Insurance Contribution Act, state and federal income taxes). Net unearned income, ~~from investment and nonrecurring lump sum payments~~, shall be determined by deducting reasonable income-producing costs from the gross unearned income. Money left after this deduction shall be considered gross income available to meet the needs of the eligible group.

a. to e. No change.

f. The client shall cooperate in supplying verification of all unearned income and of any change in income, as defined at rule 441—75.50(249A).

(1) No change.

(2) When the client notifies the department that the amount of job insurance benefits used is incorrect, the client shall be allowed to verify the discrepancy. The client must report the discrepancy before the eligibility month or within ten days of the date on the Notice of Decision, Form 470-0485, 470-0485(S), 470-0486, or 470-0486(S), applicable to the eligibility month, whichever is later.

ITEM 18. Amend subparagraph **75.57(2) "h"(1)** as follows:

(1) \$41 plus an amount equivalent to the monthly maximum food ~~stamp allotment in the food stamp assistance program benefit~~ for a one-member household for a boarder and roomer or an individual in the home to receive nursing care, or \$41 for a roomer, or an amount equivalent to the monthly maximum food ~~stamp allotment in the food stamp assistance program benefit~~ for a one-member household for a boarder.

ITEM 19. Amend paragraph **75.57(6) "b"** as follows:

b. The value of the ~~coupon allotment in the food stamp assistance program benefit~~.

ITEM 20. Amend subparagraph **75.57(9) "a"(1)** as follows:

(1) Upon application, the department shall use all earned and unearned income received by the eligible group ~~during the 30 days before the application date to project future income. EXCEPTION: If the applicant provides verification that the 30-day period specified above is not indicative of future income, income from a longer period or verification of anticipated income from the income source may be used to project future income.~~ Allowable work expenses shall be deducted from earned income, except in determining eligibility under the 185 percent test defined at rule 441—75.57(249A). The determination of initial eligibility is a three-step process as described at rule 441—75.57(249A).

ITEM 21. Amend rule 441—76.2(249A) as follows:

441—76.2(249A) Information and verification procedure. The decision with respect to eligibility shall be based primarily on information and verification furnished by the applicant or member. The department shall notify the applicant or member in writing of additional information or verification that is required to establish eligibility. This notice shall be provided to the applicant or member personally, or by mail or facsimile. Applicants for whom eligibility is determined in whole or in part by the Social Security Administration (SSA) shall make application to the SSA within five working days of referral by the department. ~~If, by the due date, the department does not receive the information or verification~~

~~requested, an authorization to obtain the specific information or verification requested, or a request for an extension of the due date, the application shall be denied or assistance canceled. Signing a general authorization for release of information to the department does not meet this responsibility. Five working days shall be allowed for the applicant or member to supply and the department to receive the information or verification requested. The department may extend the deadline for a reasonable period of time when the applicant or member is making every effort but is unable to secure the required information or verification from a third party.~~

76.2(1) to 76.2(3) No change.

76.2(4) ~~Monthly reporting~~ *Providing additional information.* Rescinded IAB 10/4/00, effective 10/1/00. The department shall notify the applicant in writing of additional information or verification that is required to establish eligibility. This notice shall be provided to the applicant or member personally or by mail or facsimile.

a. The department shall allow the applicant five working days to supply the information or verification requested. Applicants for whom eligibility is determined in whole or in part by the Social Security Administration shall make application to the Social Security Administration within five working days of referral by the department.

b. The department may extend the deadline for a reasonable period of time when the applicant is making every effort but is unable to secure the required information or verification from a third party.

c. The application shall be denied or assistance shall be canceled if the department does not receive one of the following by the due date:

(1) The information or verification,

(2) An authorization to obtain the information or verification, or

(3) A request for an extension of the due date.

d. If benefits are denied for failure to provide information and the information is provided within 14 calendar days of the effective date of the denial, the department shall complete the eligibility determination as though the information were received timely. If the fourteenth calendar day falls on a weekend or state holiday, the applicant shall have until the next business day to provide the information.

76.2(5) No change.

ITEM 22. Adopt the following **new** subrule 76.5(4):

76.5(4) *Reinstatement.*

a. Eligibility for medical assistance may be reinstated without a new application when all information necessary to establish eligibility, including verification of any changes, is provided within 14 calendar days of the effective date of the cancellation. If the fourteenth calendar day falls on a weekend or state holiday, the client shall have until the next business day to provide the information.

b. When medical assistance has been canceled for failure to return a completed review form as required by subrule 75.52(3), assistance may be reinstated without a new application if the department receives the completed form within 14 calendar days of the effective date of cancellation. If the fourteenth calendar day falls on a weekend or state holiday, the client shall have until the next business day to provide the information.

ITEM 23. Amend subrule 76.7(1), introductory paragraph, as follows:

76.7(1) The member shall supply, insofar as the member is able, additional information needed to establish eligibility within ~~five~~ ten working days from the date a written request is issued.

ITEM 24. Adopt the following **new** paragraph **92.4(1)“c”**:

c. If benefits are denied or canceled for failure to provide information and the information is provided within 14 calendar days of the effective date of the denial or cancellation, the department shall complete eligibility determination as though the information were received timely. If the fourteenth calendar day falls on a weekend or state holiday, the client shall have until the next business day to provide the information.

ITEM 25. Adopt the following **new** subrule 92.6(4):

92.6(4) *Reinstatement.* Eligibility for IowaCare may be reinstated without a new application when all information necessary to establish eligibility, including verification of any changes, is provided within 14 calendar days of the effective date of the cancellation. If the fourteenth calendar day falls on a weekend or state holiday, the client shall have until the next business day to provide the information. When eligibility can be reestablished, assistance shall be reinstated with an effective date of the first day of the month following the month of cancellation.